Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section 9702 (d)	Under this section the required data element table, the data element named "Current Date Disability Began" or DN144 is listed. This data element is not part of the IAIABC Release 2 standards which are no longer accepted by WCIS. Therefore, this data element should be stricken from the rule, as the other Release 2 data elements have been.	Ryan Hill EDI Coordinator Applied Underwriters October 7, 2005 Written Comment	We agree.	This data element will be deleted.
Section 9702 (e)	Commenter seeks clarification regarding the appropriate date of expected compliance in relation to electronic data reporting of paid/denied claims data – the date listed in the draft EDI Implementation Guide of March 1, 2006 or the June 1, 2006 date listed in this section.	Kim Diehl, Director Government and Regulatory Compliance MSC – Medical Services Company October 28, 2005 Written Comment	We agree.	The compliance dates will be corrected and changed to reflect a six month lead time following the effective date of the regulations. The guide and the regulations will be consistent.
General Comment Confidentiality, Privacy and Security	Commenter refers to and agrees with an 8/11/05 letter submitted to Administrative Director Hoch from the American Insurance Association, and their attached memorandum from the Law Firm of Sonnenschein, Nath &Rosenthal, that states that the proposed regulations do not adequately address confidentiality, privacy and security issues. Is concerned that trading partners are uncertain about security and that they should be granted immunity if data is inappropriately obtained or lost.	David Mitchell Republic Indemnity November 1, 2005 Written Comment	With regard to the privacy concerns, the workers' compensation information system (WCIS) is HIPAA compliant. In the past five years there have been no privacy or confidentiality breaches. Further, Labor Code sections 138.6 and 138.7 specify which parties are entitled to receive information and the process. With regard to the comment that only those data elements that are truly essential for the Division to perform its statutory tasks should be required, the DWC staff has worked very closely with the workers' compensation community for several years to ensure that DWC's medical data collection will optimally serve the needs of the community. As a result of the many task force	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			meetings that have been held, there is virtual consensus that the data that DWC will collect is appropriate. Moreover, insurance companies and self-insured employers strongly prefer that DWC collect medical data for all claims, not a sample of claims.	
General Comment Financial Impact	Commenter has spent a significant amount of money on programming costs to comply with WCIS mandates starting with the development of FROIs and SROIs. Commenter states that quotes for a translator to allow them to report the required medical data items have ranged has high as $400,000 dollars, much more than the $50,000 dollar estimate provided in the ISOR. Is concerned about the cost of annual software licensing fees, building in redundancy capabilities in case of either a software or hardware failure, leveraging the technology costs for E-Billing requirements that will be forthcoming and the software compatibility with existing systems. A lot of internal programming time and coordination time with their bill review partner will be required to comply with these regulations once they become final and commenter is concerned about their ability to be in compliance by the effective date.	David Mitchell Republic Indemnity November 1, 2005 Written Comment	We disagree that it is necessary to pay $400,000 in order to comply with the medical data reporting elements ❑ One vendor reported that the total initial fixed cost for a sender that wants to establish an entirely in-house reporting system could reach a total of $250,000 to $300,000, *not* on an amortized basis. The amortized annual cost is a fraction of this cost. ❑ The yearly set fee corresponding to the in-house reporting system according to this vendor would be $8,000. ❑ Multiple respondents indicated that bill review companies could send their clients' medical reporting data at very low cost, perhaps as low as $.05-$.10 per transaction. A cost of $.50 per transaction was stated by one vendor as	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			being the top of his company's estimated range of total variable cost, or client fee. ❑ The total number of medical bills/transactions per workers' compensation claim averages about 5-7. This figure is likely to be falling significantly due to the system reforms that have dramatically reduced medical costs for workers' compensation claims. ❑ State Fund's estimated annual cost of $338,000 represents an average cost per claim of about $1.40, assuming that the annual number of SCIF claims averages 236,000 (which is the average number of FROI reports sent to the WCIS in the 2001-2004 period).	
Section 9701(a)	The definition of Bona Fide Statistical Research is too broad. Concerns surrounding individually identifiable data and how that information is to be protected should be addressed.	David Mitchell Republic Indemnity November 1, 2005 Written Comment	We disagree. The subsection defines "bona fide statistical research." The issues concerning the protection of individually identifiable information and privacy rights are addressed elsewhere. The transmission requirements are in the guides and the protection of privacy rights and individually identifiable information are addressed in section 9703 and Labor Code section 138.7.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section 9701(c)	Sentence for "EDI implementation Guide for Medical Bill Payment Records" -- suggests that for clarity sake, the Division identify the appropriate release of the manual in question, as there is more than on EDI Release Manual.	David Mitchell Republic Indemnity November 1, 2005 Written Comment	We agree.	The Medical Implementation Guide will be re-dated to December 2005 (version 1) and the definitions will refer to the December version.
Section 9702(e); Section 9702(h)(3)	Commenter states that the implementation date should be on or after January 1, 2007. He states that the March 1, 2006 date is not feasible and suggests that a phase in option be implemented to allow California domiciled payers to complete programming needs to give them a chance to catch up with national companies that are already reporting in IAIABC jurisdictions. He also states that the quality of the medical billing data received by payers must first be improved.	David Mitchell Republic Indemnity November 1, 2005 Written Comment	We disagree that additional time is needed: • At national meetings of the IAIABC, CA indicated that it would provide 6 months lead time for med data reporting and industry participants found this to be acceptable. • According to one major vendor, claims administrator with no experience sending med data would need 6-7 man-months, while one familiar with sending such data would need 2-3 months. • Another major vendor indicated that, for a company already sending health care data, the reporting would require only "a few weeks" of preparation. • A third vendor indicated that giving claims administrators 6 months to prepare to send the med data was absolutely reasonable. However, the section will be changed to require compliance six months after the regulations effective date	The section will be changed to require compliance six months after the regulations effective date and to allow for a claims administrator to request a six month variance.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			and to allow for a claims administrator to request a six month variance.	
	Concerning the requirement "claims administrators handling 150 claims per year," as written, questions if this includes any claims operations/self insured and self administered employers that are in claims runoff. Commenter assumes that because of the requirements to update SROI data, it is immaterial to WCIS that a claims administrator or a particular trading partner (ie: a self insured employer whose claims might be handled by a TPA) might be in runoff with a diminishing calendar year volume – wonders if it is feasible to require only those administrators who incur 150 total claims per calendar year to be subject to the medical data reporting requirements.		We disagree. If a claims administrator is only handling 150 claims, even if run off, they are not required to report.	
Section 9703(d)(2)	Recommend adding definitions in 9701 regarding Institutional Review Board. Definition should be clear as to what it is and the purpose that it will serve.	David Mitchell Republic Indemnity November 1, 2005 Written Comment	We disagree. Section 9703(e), which refers to the Institutional Review Board, specifies that the researcher shall submit written approval of the research protocol by an Institutional Review Board under Title 45, Code of Federal Regulations, Subpart A. This section provides the requirements of the Institutional Review Board and of the approval procedure as required by the Department of Health and Human Services.	None.
Section 9703(d)(5)	Recommend that within an agreed upon time, that the researchers should return the data to	David Mitchell Republic Indemnity	We disagree. This language tracks the requirements set forth in Labor	None, except the subdivision is amended to

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the Administrative Director for appropriate disposition. Commenter is concerned about confidentiality and about the possibility that the data could be unscrambled.	November 1, 2005 Written Comment	Code §138.7. Researchers are required to have their protocols approved by an IRB before they are provided with identifiable information. However, the subdivision is amended to include reference to Civil Code §1798.24.	include reference to Civil Code §1798.24
Section 9703(e)	Commenter reiterates that there should be clarity as to what an Institutional Review Board is, and their purpose, without the necessity of having to look up the Code of Federal Regulations, and then try to determine its function and purpose. Definition should be clear and concise.	David Mitchell Republic Indemnity November 1, 2005 Written Comment	We disagree. Section 9703(e), which refers to the Institutional Review Board, specifies that the researcher shall submit written approval of the research protocol by an Institutional Review Board under Title 45, Code of Federal Regulations, Subpart A. This section provides the requirements of the Institutional Review Board and of the approval procedure as required by the Department of Health and Human Services.	None.
Section 9703(d); Section 9703(b)	Commenter thanks the division for revising Section 9703(d) from 10 days to 15 business days for submission of certain data elements. Commenter believes that Section 9702(b) requiring the submission of certain data elements within 5 business days of knowledge of the claim is an unrealistic time limit that will assure noncompliance. In order the file electronically, Zenith must pull the data from their system at least 3 business days prior to filing for editing and processing. Commenter states that if the requirement for submission is made within 5 days that it will create multiple correction and change reports which in turn creates twice the labor, twice the transmission	Diane Heidenreich Vice President & Assistant General Counsel The Zenith November 15, 2005 Written Comment	No change requested. We disagree. Labor Code section 6409 requires the information to be filed within five days.	None. None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	costs and twice the number of transactions that WCIS will have to process. Commenter suggests the language be changed to allow between 15 and 20 business days for submission.			
Section 9702(e)	Recommend the medical bill payment reporting start date be postponed until the California proposed standard provider billing initiative is completed. The ability to obtain and report mandatory and conditional data elements is greatly contingent on provider's submitting accurate billing data on standard billing formats. The burden will fall on the payers, claims administrators and bill review companies to frequently go back to payers and ask for mandatory reporting data.	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We disagree. Labor Code section 4603.4, which mandates standardized billing, was adopted in 2002. Labor Code section 138.6, which mandates collecting data for the WCIS, was adopted in 1993. However, we will amend to allow a variance for undue hardship.	Section 9702(a) will be amended to allow for a variance for undue hardship.
Medical Bill Payment Implementation Guide	Proposed Medical Bill Payment implementation guide lists DN651 (Rendering Provider Taxonomy Specialty Code) as a mandatory reporting field. We request that this field be made optional. The WCIS should have its own access to the state's provider data and can obtain this information based on provider name and Federal Tax ID number submitted on the 837 file. This information will have to be added to existing provider data-bases and will cause increased expense to submitters.	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We disagree. The information is readily available from the California Department of Consumer Affairs in the public database of licensed medical providers. The corresponding code is readily available to all claims administrators from the Washington Publishing Company.	The DWC added a reference to the California Department of Consumer affairs in the Medical Implementation Guide.
Medical Bill Payment Implementation Guide	Proposed Medical Bill Payment implementation guide lists DN630 (Billing Provider State License Number), DN643 (Rendering Bill Provider State License Number) and DN649 (Rendering Bill Provider Specialty License Number) as mandatory reporting fields. We request that this field be made optional. The WCIS should have its own	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We agree to change DN 649 to conditional. We disagree with the other comments. The claims administrator will have this information before it pays the bill and claims administrators systems should have	The DWC changed the requirement for DN649 (Rendering Bill Provider Specialty License Number) to conditional. The DWC also added a reference to the California Department of Consumer

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	access to the state's provider data and can obtain this information based on provider name and Federal Tax ID number submitted on the 837 file. This information will have to be added to existing provider data-bases and will cause increased expense to submitters.		already integrated this public information data base into their systems. Those claims administrator who report to Florida are already providing the Federal information. The cost of acquiring a complete list of California medical providers state license numbers is $250 per year.	affairs in the Medical Implementation Guide.
Medical Bill Payment Implementation Guide	Payment of inpatient hospital bills is based on DRGs as follows: **§789.22. Payment of Inpatient Hospital Services.** (a) Maximum payment for inpatient medical services shall be determined by multiplying 1.20 by the product of the health facility's composite factor and the applicable DRG weight. The fee determined under this subdivision shall be a global fee, constituting the maximum reimbursement to a health facility for inpatient medical services not exempted under this section. The proposed Medical Bill Payment implementation guide is unclear as to reporting of the inpatient hospital bill payments based on bill-level DRG codes. Each Revenue Billed Code (DN599) and each total charge per line (DN55) can be reported in the SV2 (Institutional Service Revenue Procedure Code) segment of the 837. However, the fee schedule adjustments are at the bill level and not the line level. The proposed implementation guide is unclear as	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	Disagree. The DRG code is to be reported in the CN1 segment of the 2300 Loop. Disagree. Bill level adjustments are to be reported in the CAS segment in	None. None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	to how to report Service Bill Adjustments. The 837 Service Line Adjudication (SVD) segment is available to report line-level reductions, but not bill level reductions. We request clarification on reporting bill-level hospital adjustments.		the 2320 Loop. Disagree. Bill level adjustments are reported in the CLM, AMT, segments of the 2300 Loop and in the CAS segment of the 2320 Loop.	None.
Medical Bill Payment Implementation Guide	Commenter requests the following to be added to the implantation guide: • Illustrate the Bill Reviewer role and relationships in explicit examples or diagrams • Clarify and outline requirements for the Bill Review Company's completion of the Trading Partner Profile	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We agree. We agree.	Added an example in Section F of the medical implementation guide. Added a clarifying paragraph in Section F of the medical implementation guide
Security Concern	Commenter's IT department requires that they initiate data transmissions to trading partners for security reasons, so that they are not required to host an FTP server outside of their firewall. However, even if they initiate the connection and if PGP was used to encrypt the data, the log-on credentials would be sent in the clear. The other alternative would be for the State of California to host a sFTP (Secure FTP) server, as the States of Texas and Florida currently do for their transmissions. Preference would be to not use an EDI VAN (commercial Value Added Network) but leverage the Internet as the data transport mechanism.	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We agree.	Re-wrote section I of the Medical Implementation Guide.
Transmission	Because it greatly facilitates error handling and response, commenter would like to be able to transmit each 837 transaction within its own transaction set, that is, one bill per ST-SE loop. Requests that should DWC need to impose any restrictions on the number of bills	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We agree. This is already possible.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	in a transaction, that they will still allow the transmission of one 837 bill per ST-SE transaction set.			
Transmission	Because of the difficulty of diagnosing errors in EDI transactions, commenter requests that: • The WCIS 997 include explicit error codes and the contents of erroneous data elements when reporting non-compliant 837 transactions • The WCIS 824 procedures include an explicit description of the relationship between 824 batch level and transaction level acknowledgment codes and how they will affect one another • The WCIS procedures also include a description of the circumstances in which a TE acknowledgment code will be received and what the sender's response should be • The WCIS 824 transaction will include the DN547 line number data element or other user-determined line-specific reference, should one be adopted by the IAIABC as they have been discussing, when an error occurs on an 837 line item	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We agree.	Reworded section G in the Medical Implementation Guide. Reworded section N in the Medical Implementation Guide. Continue to work with the IAIABC to achieve adoption of DN547 in the RED segment of the ANSI 824
Transmission	Because it is easier to maintain a single set of uniform requirements, particularly when using software purchased from and maintained by outside vendors, commenter requests that the WCIS EDI standards use industry standards such as ANSI and IAIABC wherever possible when making choices for EDI code values,	Donna Lackey, RN Product Director Intracorp November 17, 2005 Written Comment	We agree.	None – we already use industry standards whenever possible.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	formats, and protocols.			
Medical Bill Payment Implementation Guide Section C1:VAN and FTP Transfers	Requests that the Division reconsider the use of the ANSI X12 Version 4010. The 4010A1 is the most current version of the 837 format used industry wide.	Kelly Weigand First Health Group Corp. November 21, 2005 Written Comment	We disagree. Labor Code section 138.6 requires use of version 4010. because it is IAIABC.	None.
Medical Bill Payment Implementation Guide Section H: Supported transactions and ANSI file structure Health care claim transaction sets (837 & 824)	Requests that the Division reconsider the use of the ANXI X12 824 acknowledgement form. The industry is now moving to the ANSI X12 277 unsolicited claims status format as an acknowledgement for the 837. Both New Jersey and Utah are currently mandating the use of the ANXI X12 277, and the clearinghouse vendors are also pushing to use the 277 as the industry standard.	Kelly Weigand First Health Group Corp. November 21, 2005 Written Comment	Disagree. The ANSI 824 is the IAIABC standard. The 277 should be part of the e-billing regulations not the WCIS regulations.	None.
EDI First and Subsequent Reports of Injury Implementation Guide Section H: File Formats and Supported Transactions - Understanding ANSI and Flat Files	The Division has adopted the use of the ANSI X12 837 3041 format for the electronic transmission of first reports and subsequent reports of injuries. Notwithstanding, the California EDI Medical Bill Payor Records Implementation Guide allows for the use of ANSI X12 837 Version 4010. Requests that the Division adopt the same format for both.	Kelly Weigand First Health Group Corp. November 21, 2005 Written Comment	We disagree. The two versions are IAIABC standards.	None.
Section 9702(e)	Requires each claims administrator handling 150 or more claims per year to submit to the WCIS certain data elements for all medical services beginning June 1, 2006. Commenter believes this to be very aggressive considering the new reporting requirements and the mapping changes to applications that would need to take place in order to meet the different formatting requirements. Commenter asks that the Division reconsider this date and give claims administrators a minimum of one year to comply with the new requirements.	Kelly Weigand First Health Group Corp. November 21, 2005 Written Comment	We agree to provide for a variance.	Section 9702(a) is amended to allow claims administrators to request a variance in reporting some or all of the medical data elements.
General comments	Commenter states that the regulations for both	David Mitchell	We disagree that the regulations need	Section 9702(a) is

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
regarding implementation	the WCIS and E-Billing need to occur simultaneously. Because this is not occurring there will be significant issues in designing and developing a program that ensures that all data reporting requirements are met. Since these two projects will impact all aspects of any claim reporting and payment system, a fully integrated, system development approach is required so that potential negative system impact is kept to a minimum. WCIS and E-Billing will require database expansion in several areas: ▪ OCR process will need to be modified to capture additional information from both the HCFA 1500 and the UB92. ▪ Imaging and OCR software will need to be modified to pass additional information to the AS/400 computer system. ▪ Database files will need to be expanded, and in some cases new files created to store the additional data. This requires all programs that use these expanded files to be reviewed and re-compiled to recognize the new file formats. This could affect programs that have nothing to do with E-Billing or Medical Data Reporting directly. ▪ Interfaces with trading partners will need to be reviewed and expanded to handle the additional data requirements. ▪ Some trading partner systems will also require modification and	Republic Indemnity November 18, 2005 Written Comment	to occur simultaneously. Labor Code §138.6, which authorizes the WCIS regulations has been in effect since 1993. Labor Code § 4603.4, which authorizes regulations pertaining to standard forms and electronic billing has been in effect since 2002. Nonetheless, the division will coordinate the standardized forms and electronic billing regulations with the requirements to report to WCIS. Additionally, the regulations are modified to allow for a variance.	amended to allow claims administrators to request a variance in reporting some or all of the medical data elements.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	expansion to acquire additional data and pass it back. ▪ It will be necessary to acquire a data mapping tool that will generate the 837 format and related acknowledgements. Mapping both inbound and outbound 837 transactions at the same time insures that nothing is missed and that the end product for WCIS Medical Data Reporting will have all of the required data. ▪ Mapping the inbound and outbound 837 transactions separately increases the risk that some data element is overlooked and ultimately will not be available to the insured for reporting purposes.			
General Comment	DHS recommends that the submission of paper-based 5021s must be continued and that a 150 character-long text data element to capture diagnoses be added to the WCIS. While the proposed regulations define a claim as being triggered by receipt of a Form 5021 by a claims administrator, the data elements included in the system as determined by the IAIABC EDI Implementation Guide do not include the majority of information on a Form 5021. The Form 5021 is a medical record, and as such includes extensive notes by both the patient and the health care provider, very little of which is captured by the WCIS. This is understandable, as the WCIS is not intended to contain extensive medical information, but rather is a system for tracking costs and benefit delivery.	Jennifer Flattery, MPH Robert Harrison, MPH Barbara Materna, PhD, Dept. of Health Services Occupational Health November 22, 2005 Written Comment	With regard to the comment that the 5021 should continue to be submitted in paper, the comment goes beyond the scope of these regulations. With regard to the request for the text data element, this would not be part of the IAIABC standards, with which the Labor Code requires compliance.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	The addition of data elements from Medical Bill Payment Records adds some limited medical information to the system that can be helpful for our data needs, particularly diagnosis codes including 'admitting diagnosis code' (DN535), 'ICD-9 CM Diagnosis Code' (DN522) and 'Principle Diagnosis Code' (DN521). However, diagnosis codes are frequently missing or incorrect in medical records. We currently have established databases tracking worker illnesses and injuries based on data gathered from the Form 5021s. An analysis of our Form 5021 cases indicates that we would miss at least 50% of the occupational injury and illnesses cases we currently ascertain through paper-based Form 5021s if we were to rely on the variables proposed for the Medical Bill Payment Records component of the WCIS. An assessment of Form 5021s for asthma cases, for example, shows that only 51% of the cases with ICD-9 codes had the code indicating an asthma diagnosis (493). The remaining 49% of cases were determined to be asthma from the other information on the Form 5021, but presumably would have been missed using only diagnosis codes within the WCIS system. Similarly, only 40% of the asthma cases would have been selected using a text search of the worker's description of the accident (DN38), the current method of selecting asthma cases from the WCIS data. When we combine these fields, 50% of the current Form 5021 cases would have been missed in the WCIS database because they have neither an asthma ICD code nor asthma			

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	key words in the worker's description. Analyses of our carpal tunnel syndrome and pesticide illness databases show similar results. While these analyses were only performed for three specific conditions, there is no reason to believe the same limitations would not be true for a wide range of health conditions among California workers. Because paper-based Form 5021s provide an invaluable data collection tool as a medical record for occupational illness and injury and serve a different purpose that cannot be replaced by the WCIS, **we propose that the submission of paper-based 5021s be continued**. In order to make the WCIS more effective for tracking occupational morbidity, we also propose that at least one additional data element be added to the WCIS system to better represent information on the Form 5021. The review of our current Form 5021 databases reveal that while diagnosis codes are often missing or incorrect on the Form 5021, more accurate, specific diagnoses would frequently be written in literal form as text. We have found that if a data element capturing a text field for diagnosis were added (eg. 'asthma' as opposed to ICD 493), 80-90% of the cases could be identified from the WCIS. **We recommend the addition of a 150 character-long text data element to capture diagnoses in addition to the ICD code**. Given that literal diagnoses are already provided to claims administrators on Form 5021s, and are contained in the medical records for subsequent medical visits, this should not be a significant additional burden			

	for trading partners. Also, our understanding is that the requirement for California to be compatible with the IAIABC EDI standards does not prevent the DWC from requiring additional data elements, but rather requires that it must include at least the data elements included in the national standards.			
General Comment	Commenter is researching the possibility of obtaining access to the Workers Compensation Information System (WCIS) file that would allow PCG to identify WC cases that any of our current clients may have paid in error. These clients have access to the appealed WC claims from the Workers Compensation Appeal Board (WCAB) file, but that is only a subset of the entire group of WC cases at any point. Commenter understands that annually the Division of Workers' Compensation registers approximately 800,000 WC cases. However only about 30% of those cases are appealed and subsequently are recorded on the WCAB file. By not being able to identify all of the 800,000 cases, PCG cannot audit and route accurately all of the WC claims to the appropriate WC insurance carrier for payment. Commenter alleges that the Department of Industrial Relations (DIR) and the Division of Workers' Compensation are protecting the WC insurance carriers from their liabilities by not allowing Health Insurance carriers to access the complete set of WC cases on the WCIS file. PCG recognizes that the DIR has a large responsibility to protect the PHI of the	Ken Wiens Public Consulting Group November 22, 2005 Written and Oral Comment	Labor Code section 138.7 restricts the release of data to specific entities, including bona fide researchers.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	individuals that have submitted WC claims. However, the HIPAA privacy rule doesn't require patient consent for routine uses or disclosures of medical information for medical treatment or billing purposes. PCG would like to work with the DIR to obtain the minimal information needed to identify and correctly route claims resulting from any work related incidents to the correct WC Insurance Carrier.			
Economic Impact	In the assessment of the cost to current data reporters, national insurers, and newly reporting claims administrators, the Administrative Director (AD) provides some undocumented, and we believe unfounded, cost estimates. The AD estimates that vendor cost for insurers who do not yet report medical data will be $8,000 per year. For companies that report directly to WCIS, the stated initial costs will be approximately $50,000. The AD states that there will be no additional costs for national insurance companies that already report medical data in other states. The Institute's members believe that the financial impact on all data reporters is severely understated and misleading. Our members' past experience and their efforts to anticipate compliance with the new data reporting demands indicate that the additional cost of reporting medical data will be as much as 100 times the Division's estimate. Information from members who are currently reporting WCIS data, as well as estimates from other experts and consultants demonstrate that the expansion of the system will include significant expenditures that the	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. ❑ One vendor reported that the total initial fixed cost for a sender that wants to establish an entirely in-house reporting system could reach a total of $250,000 to $300,000, *not* on an amortized basis. The amortized annual cost is a fraction of this cost. ❑ The yearly set fee corresponding to the in-house reporting system according to this vendor would be $8,000. ❑ Multiple respondents indicated that bill review companies could send their clients' medical reporting data at very low cost, perhaps as low as $.05-$.10 per transaction. A cost of $.50 per transaction was stated by one vendor as being the top of his	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	AD is ignoring and that these costs will be borne by public and private employers alike.		company's estimated range of total variable cost, or client fee. ❑ The total number of medical bills/transactions per workers' compensation claim averages about 5-7. This figure is likely to be falling significantly due to the system reforms that have dramatically reduced medical costs for workers' compensation claims. ❑ State Fund's estimated annual cost of $338,000 represents an average cost per claim of about $1.40, assuming that the annual number of SCIF claims averages 236,000 (which is the average number of FROI reports sent to the WCIS in the 2001-2004 period).	
California WCIS	While the enabling statute requires WCIS compatibility with national data collection system (EDIS) standards of the IAIABC, the WCIS medical reporting requirements contained in the proposed regulation exceed and/or differ from those in other states. National insurers reporting in other states, therefore, will not be spared the additional costs. Some of the most significant expenditures will include system reprogramming, data corrections, and a continuous (daily) transaction costs. This is in	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. Different state jurisdictions have different state statutes which establish different regulatory requirements which establish different reporting requirements which establish different data elements.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	addition to any new software required to report in California and any new hardware that may be needed.			
System Expansion, Re-programming, Personnel Costs	Our members, who are currently reporting data, have indicated that the cost for insurers to begin report through vendors is likely to be 100 times the DWC estimate of $8,000 per year. Claims administrators are already experiencing multiples of that $8,000 estimated annual cost every month to deliver the First and Subsequent report data. There are over three-quarters of a million First Reports of Injury per year, and every claim has at least one Subsequent report – often multiple Subsequent reports must be filed. For FROIs and SROIs, there may be as many as 3 to 5 million reportable events per year. There are about 80 million medical payments, and approximately 6 times that many lines, covered by the Medical Data Reporting Requirements of WCIS per year. If the claims administrators are paying tens of thousands of dollars to report the First and Subsequent data, the medical data has an exponentially greater volume and the system costs, including the cost of additional staff, will be exponentially higher, as well. The initial cost estimate ($50,000) for companies reporting directly to WCIS is significantly understated. $50,000 is less than the lowest quote reported just for the translator; let alone any reprogramming, software, staffing expense or use of other resources.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. ❑ One vendor reported that the total initial fixed cost for a sender that wants to establish an entirely in-house reporting system could reach a total of $250,000 to $300,000, *not* on an amortized basis. The amortized annual cost is a fraction of this cost. ❑ The yearly set fee corresponding to the in-house reporting system according to this vendor would be $8,000. ❑ Multiple respondents indicated that bill review companies could send their clients' medical reporting data at very low cost, perhaps as low as $.05-$.10 per transaction. A cost of $.50 per transaction was stated by one vendor as being the top of his company's estimated range of total variable cost, or client fee. ❑ The total number of medical bills/transactions per workers' compensation claim averages about 5-7.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Our members have already experienced the real cost of WCIS compliance from the development of the FROIs and then SROIs. The typical cost for these programs, which the Division may not have accounted for include data analysts and other systems experts, data mapping, programming, the cost of third party vendors until internal programming was completed and WCIS could accept data directly from trading partners, and continued support costs. Each claims administrator has invested hundreds of thousands of dollars to comply with WCIS mandates to date. A number of our members have advised that they have already spent considerable time, effort, and resources to prepare for the Medical Data Reporting Requirements. This includes the hiring of additional analysts, data mapping, internal programming, and reviewing bids for a data translator and/or vendors to do the reporting. Other cost elements that the Division may not have understood include software licensing fees, back-up systems in case of software or hardware failure, software compatibility issues, adjustments to parallel or integrated processes such as OCR (optical character recognition) and utilization review. There will also be significant ongoing costs for actual reporting, maintenance and other costs in addition to the initial fees. The AD's cost estimate must not have considered all the relevant elements and should be revised to be more realistic.		This figure is likely to be falling significantly due to the system reforms that have dramatically reduced medical costs for workers' compensation claims. ❑ State Fund's estimated annual cost of $338,000 represents an average cost per claim of about $1.40, assuming that the annual number of SCIF claims averages 236,000 (which is the average number of FROI reports sent to the WCIS in the 2001-2004 period).	

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
State Agencies and Local Agencies	Public employers, school districts, state agencies and local agencies, are not exempt from the medical data reporting and will not be immune to these significant outlays for translators, software, reprogramming, and additional personnel. Public and private employers will shoulder the additional costs that claims administrators and vendors incur, either directly if they are self-insured or through increased premium. The costs imposed by the WCIS medical data reporting regulations will have a significant impact on the DIR and the DWC, which are State agencies. The DWC and DIR have already expended a considerable but unknown sum to comply with the proposed medical WCIS regulations. This amount and projected future costs should be reported here. These costs affect all California employers since they ultimately must cover the DWC budget through user funding.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We agree. We disagree. DWC has not requested any additional funding for the medical component of the WCIS. Any costs to add the medical component are absorbable. The system was originally designed to include medical data.	We have amended section 9702(a) to allow for a variance. None.
Additional Data Elements	Current WCIS regulations require the reporting of 95 data elements. The proposed regulations would require 200 data elements. Reporting costs for medical data will be infinitely greater because of the large number of reportable medical transactions, as previously indicated.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. Per unit costs decrease as quantity increases.	None.
Coordination with Other Related Regulations	The coordination of the new medical data reporting requirements with related regulations (E-billing) and the finalization of system testing is essential, and if not done the disruption to the workers' compensation	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and	We disagree. Labor Code section 4603.4, which mandates standardized billing, was adopted in 2002. Labor Code section 138.6, which mandates collecting data for the WCIS, was	Section 9702(a) will be amended to allow for a variance for undue hardship.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	system and the wasted resources will be unconscionable. The workers' compensation community was advised many months ago that the E-billing regulations would be finalized before the Medical Data Reporting Requirements and that these systems would be coordinated. It now appears that WCIS is set to move ahead and the AD intends to make these systems fit together later. It also appears that WCIS Beta testing has not been completed. Both of these efforts will give rise to additional modifications to the reporting requirements.	Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	adopted in 1993. The E-billing regulations will be designed to work with the WCIS system. However, we will amend to allow a variance for undue hardship.	
	According to DWC representatives, the Division plans to modify medical WCIS regulations after the implementation of billing standards, in order to require claims organizations to report data that was previously optional. To avoid duplicate programming and implementation costs, the billing standards regulation should be finalized prior to -- or at least in tandem with -- medical WCIS regulations. Determining medical billing needs first, then determining how to best report a subset of that medical billing information is the better and less costly course.		We disagree with this representation.	None.
	The DWC is currently Beta testing the proposed medical WCIS system and has already discovered some glitches. The systems and the implementation guide will therefore need to be corrected. The public should not be asked to comment on a system and an implementation guide that are still being tested. If regulations are adopted prior to the		We disagree. The implementation guide has been BETA tested and no further changes are anticipated until a new version of the guide is implemented in the future do to legislative or administrative changes.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	completion of testing and all associated modifications, then there will be additional, unnecessary re-programming costs for insurers and employers. Any further modification to the system will require changes to the implementation guide, as well. The AD is "incorporating by reference" a guide that is not yet finalized and therefore cannot be reviewed by the regulated community. Each tinkering with WCIS will have a ripple effect on all data reporters. The Institute recommends the implementation of: 1. Billing standards regulations, 2. Medical WCIS regulations			
Implementation Period	Our members stressed also that the amount of time required for internal programming and coordination with bill review partners once the regulations are final will be considerably more than allowed. For both claims organizations and vendors, the cost of reprogramming will be significant should the regulations remain unchanged and our assumptions prove correct. Therefore, the implementation date needs to allow adequate time following adoption of the final regulations to meet these programming needs.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree that additional time is needed: • At national meetings of the IAIABC, CA indicated that it would provide 6 months lead time for med data reporting and industry participants found this to be acceptable. • According to one major vendor, claims administrator with no experience sending med data would need 6-7 man-months, while one familiar with sending such data would need 2-3 months. • Another major vendor indicated that, for a company already sending health care data, the reporting would require only "a few weeks" of preparation.	The section will be changed to require compliance six months after the regulations effective date and to allow for a claims administrator to request a six month variance.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			• A third vendor indicated that giving claims administrators 6 months to prepare to send the med data was absolutely reasonable. However, the section will be changed to require compliance six months after the regulations effective date and to allow for a claims administrator to request a six month variance.	
Total Cost of WCIS	The Administrative Director should request a financial audit or at least an accounting from the managers of WCIS in order to establish an estimate of the total cost of the system to date. The Institute and others, in the past, have asked for a financial audit of the system but we are unaware of any having been made. The Legislature, the Governor, the workers' compensation community, and the public need to know whether this statutorily mandated system has been developed in an efficient and effective manner or whether WCIS has been a costly but ultimately unproductive experiment, as have been a number of other state computerization initiatives. The primary goals of the enabling statute, section 138.6, are to: (a) Assist the department to manage the workers' compensation system in an effective and efficient manner. (b) Facilitate the evaluation of the efficiency and effectiveness of the benefit delivery system.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	This comment goes beyond the scope of these regulations.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	(c) Assist in measuring how adequately the system indemnifies injured workers and their dependents. (d) Provide statistical data for research into specific aspects of the workers' compensation program. The question remains: what has WCIS done to accomplish those goals over the past decade and at what cost? Beyond the cost of the system for the state, the regulated community is concerned over the cost to the administration of the workers' compensation system, the cost of compliance for the claims administrators to date, and the cost to comply with the new demands of WCIS. Is it effective for the workers' compensation system overall and for claims organizations to dedicate personnel, allocate system resources, and bear the cost of compliance?			
Section 9702(e) Initiation Date	The proposed implementation date for section 9702(e) should be changed to 18 months after both WCIS and E-Billing regulations are finalized. The reporting of medical services (section 9702(e)) is founded upon the establishment of a uniform billing format and procedures. The claims administrators cannot consistently report billing data until that procedure is in place and is being used fairly routinely by the medical providers. Uniform billing is not likely to be in place, tested, and in use by physicians before 1/1/07. California insurers and self-insured employers will need this additional time to retool their data systems to respond to the mandatory data reporting	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree that additional time is needed: • At national meetings of the IAIABC, CA indicated that it would provide 6 months lead time for med data reporting and industry participants found this to be acceptable. • According to one major vendor, claims administrator with no experience sending med data would need 6-7 man-months, while one familiar with sending such data would need 2-3 months. • Another major vendor indicated	The section will be changed to require compliance six months after the regulations effective date and to allow for a claims administrator to request a six month variance.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	requirements, as well. If some claim organizations are currently able to report this level of detail because they are already reporting it on a national basis, then these companies can participate voluntarily when they are ready to do so. This early information can then be used to test the capacity of WCIS to accept the data. Even if they are currently reporting for other states, until regulations require providers to use standard forms and complete all fields, they will not be able to report.		that, for a company already sending health care data, the reporting would require only "a few weeks" of preparation. • A third vendor indicated that giving claims administrators 6 months to prepare to send the med data was absolutely reasonable. However, the section will be changed to require compliance six months after the regulations effective date and to allow for a claims administrator to request a six month variance.	
Section 9703 Data Security & Confidentiality	The following entities will have access to individually identifiable information contained in the WCIS database in accordance with Labor Code Section 138.7: ▪ Administrative Director ▪ DWC ▪ Department of Health Services ▪ DOSH ▪ Division of Labor Statistics and Research ▪ Commission of Health and Safety and Workers' Compensation ▪ Bona fide statistical researchers ▪ California Public Records Act Requests (no CPRA exemption) ▪ Public or private entity ▪ Parties to a workers' compensation claim ▪ Law enforcement ▪ District Attorney	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. Labor Code section 138.7 limits which entities will have access to individually identifiable information. The commenter is incorrect in its list of entities that will have access: - Public or private entities do not have access to individually identifiable information. CPRA only applies if an application to the WCAB has been filed. The workers' compensation information system (WCIS) is HIPAA compliant. In the past five years there have been no privacy or confidentiality breaches. Further, Labor Code sections 138.6 and 138.7 specify which parties are entitled to receive information and the process.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	▪ Any person for a "journalistic purpose" ▪ Other government agencies ▪ Lien claimants The Institute, its members, and claims administrators in general expressed concern over phase one and phase two of the WCIS implementation. Now, the most comprehensive and the most sensitive data collection, individually identifiable medical information and other personal health information, is about to be instituted without any further discussion of the questions of security and privacy. The concerns of Institute members and other claims administrators have only increased with the addition of each new medical data element. The proposed regulations do not include and the Division has not provided the regulated community with the WCIS security protocols. Claims organizations are uncertain how the Division will implementation the access standards of Labor Code Section 138.7 and whether private health data and sensitive business information will be held in confidence. There is no provision in the proposed regulations for immunity or the allocation of liability for data that is lost, mishandled, or improperly disclosed. The Institute's members are still very concerned that the continued expansion by the Legislature of the agencies and others who		DWC is authorized by Labor Code section 136.8 and 138.7 to collect the data and to provide it to the entities pursuant to Labor Code section 138.6 and 138.7. Regulation section 9703 addresses access to individually identifiable information. Bona fide researchers are required to obtain written approval of the research protocol from an Institutional Review Board pursuant to Title 45, Code of Federal Regulations, Part 46, Subpart A. The protocol requires researchers to set forth why the information is required and how it will be protected, among other things. Subdivisions (d) and (f) have been amended to require non profit educational institutions to comply with Civil Code section 1798.24(t), which was amended effective January 1, 2006.	Subdivisions (d) and (f) have been amended to require non profit educational institutions to comply with Civil Code section 1798.24(t), which was amended effective January 1, 2006.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	can acquire the data will lead the courts to conclude that the WCIS is an open and fully accessible public database, despite the express statutory language guarding privacy and confidentiality. In cases like United Reporting Publishing Corp. v. California Highway Patrol, (1999) 146 F.3d 1133 (9th Cir. 1998), *cert. granted*, 119 SCt. 901 and the subsequent review by the US Supreme Court, the courts have reasoned: "It is not rational for a statute which purports to advance the governmental interest in protecting the privacy of arrestees to allow the names and addresses of the same to be published in any newspaper, article, or magazine in the country so long as the information is not used for commercial purposes." In Untied Reporting, a statute very similar to Labor Code Section 138.6 was found to be violative of the First Amendment and invalidated because the exceptions to the nondisclosure provisions undermine and countered the express governmental interests in confidentiality and privacy. The regulated community has the right to know the Division's position regarding the vulnerability of the data and the potential judicial interpretation of the statute. This vulnerability poses a dangerous Hobson's choice for the data reporters: they can report, disclosing personal health information, Social Security numbers, sensitive commercial data,			

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	and proprietary information (risking potential civil lawsuits), or withhold personal health information, confidential, and proprietary information and incur multiple administrative penalties.			
Section 9703 (b) Electronic Auditing	The Division of Workers' Compensation may obtain and use individually identifiable information for the following purposes: … 2. To help select claims administrators for audits under section 129 of the Labor Code. … Subsection (2) means that the Division will make use of the information submitted to WCIS in the DWC auditing and investigation processes and is pursuing electronic claims auditing. The enabling statute (Labor Code Section 138.6) mandates that the Administrative Director create an information system that will help manage the system in an effective and efficient manner, evaluate the efficiency of the benefit delivery system, measure the adequacy of the indemnity provided to workers and their dependents, and provide statistical data for research. After a decade, WCIS has collected data on 4 million claims at an unknown but considerable cost. One reason that the development of WCIS slowed in the mid-90s is that the Division began to promise an electronic auditing system that would track every payment, make corrections electronically, and collect penalties for late payments in order to pay for WCIS. That became, by the late 90s,	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. Labor Code section 138.6 provides that the information shall "(1) assist the department to manage the workers' compensation system in an efficient manner." And "(2) facilitate the evaluation of the efficiency and effectiveness of the benefit delivery system." Both of these goals authorize using the WCIS to help select claims administrators for audit. (Labor Code section 129 requires the Administrative Director to audit insurers to make certain that injured workers receive promptly and accurately the full measure of compensation to which they are entitled.) This comment does not address the regulations.	None. None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the myth of an automated system for auditing claims administrator performance. Institute members firmly believe that the statute never envisioned and does not support that goal.			
Research	The director of WCIS has said repeatedly that he has 4 million claims on a stable platform. That is more than enough data to produce statistically valid research to help manage the system, evaluate the benefit delivery process, and measure the adequacy of the benefits. It is admittedly not enough data to audit every payment from every payer in a system that handles three quarters of a million claims per year, as that would require everything from everybody all the time. That is, unfortunately, what the regulations seem to propose. To accomplish the legislative goals, the Division only needs sufficient data to do statistically valid research, which it appears to have already. The fallacy of electronic auditing is that a system can efficiently track every transaction on one million claims year to year. Electronic auditing requires perfection – the perfect reporting process and a perfect system to analyze the data. In California, we have neither, and the Institute believes that the costs of creating and maintaining such a system, even if it were feasible, would be enormous for both claims administrators and the state. The Division should abandon the notion of electronic tracking of every medical transaction in the system and electronic auditing. WCIS can never deliver on those expectations, and in the process, claims	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. With regard to the comment that only those data elements that are truly essential for the Division to perform its statutory tasks should be required, please note that the DWC staff has worked very closely with the workers' compensation community for several years to ensure that DWC's medical data collection will optimally serve the needs of the community. As a result of the many task force meetings that have been held, there is virtual consensus that the data that DWC will collect is appropriate. Moreover, insurance companies and self-insured employers strongly prefer that DWC collect medical data for all claims, not a sample of claims. It should be noted that DWC's regulations are requesting the same information that major insurers are already reporting to CWCI. However, DWC's reporting guidelines follow the national standards that most carriers are familiar with.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	administrators, the state, and ultimately, employers will be required to expend millions of dollars and endless resources pursuing an unobtainable goal. The Division should revise the scope of WCIS in order to achieve its statutory purpose: to help manage the system in an effective and efficient manner, evaluate the efficiency of the benefit delivery system, measure the adequacy of the indemnity provided to workers and their dependents, and provide statistical data for research. All of this can be done – today – with a refined research agenda that defines focused, actionable questions, which will create implementation options that benefit all stakeholders. A refined agenda can be accomplished. A number of agencies maintain databases that include detailed California medical data from insurers and these databases have enabled a significant variety and volume of research. Almost no data however is available from self-insured employers and state and local agencies. WCIS can fill this gap by gathering detailed medical payment information only from self-insured employers and/or state and local agencies.			
Section 9701(g)	We believe that listings of codes to be used for WCIS reporting can, and should be included in the regulations or the California EDI Implementation Guide for Medical Bill Payment Records. This is a better alternative and more convenient rather than referencing users to the IAIABC EDI Implementation Guide for Medical Bill Payment Records. The	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005	We disagree. Many of the code sets are proprietary and are maintained by other entities like the American Medical Association and cannot be published without legal authority. In addition, the size of several of the code sets are more manageable in electronic formats as opposed to	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	California EDI Implementation Guide for Medical Bill Payment Records is intended to be a one-stop how-to manual to assist with WCIS medical payment reporting.	Written and Oral Comment	paper publication, for instance the National Drug code has over 40,000 individual codes.	
Section 9702(a)	During WCIS technical advisory meetings, one claims administrator has been assured that the Division will permit a specific alternative way for that administrator to report "reconsiderations." This is not, however, reflected in the proposed Implementation Guide or regulation. As a matter of fairness, if a specific alternative method is acceptable, we recommend that it is reflected in the regulations so that other claims administrators may also use it. If the alternative is not reflected in the regulations, then this can be regarded as an underground regulation and the claims administrator cannot be certain that the alternative will be and will remain available. At a minimum, this section should be revised to retain the ability of the Division to grant a variance, on specified grounds, as there will be a number of instances that will require relief from or the revision of the reporting requirements. A variance procedure is a reasonable process for the regulator to address the needs of the various claim organizations.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. In testing, the DWC explored tractable solutions to trading partner problems. No alternative requirement was accepted because it did not meet the requirement in LC138.6 "nationally recognized data transmission."	Reworded section N in the Medical Implementation Guide to clarify the procedure.
Section 9702(h)(3)	As previously recommended, the medical services reporting date should be revised to 18 months after both WCIS and E-Billing regulations are finalized. If that is done, then this date should be revised accordingly.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. We have amended to allow a variance. However: • At national meetings of the IAIABC, CA indicated that it would provide 6 months lead time for med data reporting and industry participants found this to be acceptable. • According to one major vendor,	The section will be changed to require compliance six months after the regulations effective date and section 9702 will allow a claims administrator to request a six month variance.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			claims administrator with no experience sending med data would need 6-7 man-months, while one familiar with sending such data would need 2-3 months. • Another major vendor indicated that, for a company already sending health care data, the reporting would require only "a few weeks" of preparation. A third vendor indicated that giving claims administrators 6 months to prepare to send the med data was absolutely	
Section 9702(e)	In early WCIS discussions and meetings, claims administrators were assured that only information already being captured would be required for WCIS reporting. Many of the proposed medical data elements are not currently captured in bill review systems and not necessary to adjust medical bills. Creating and maintaining unnecessary new fields, as well as the associated additional data entry will add to the cost of the system. CWCI recommends removing unnecessary new fields.	Michael McClain General Counsel and Vice President Brenda Ramirez Medical and Rehabilitation Director CWCI November 22, 2005 Written and Oral Comment	We disagree. The DWC staff has worked very closely with the workers' compensation community for several years to ensure that DWC's medical data collection will optimally serve the needs of the community. As a result of the many task force meetings that have been held, there is virtual consensus that the data that DWC will collect is appropriate. It should be noted that DWC's regulations are requesting the same information that major insurers are already reporting to CWCI. However, DWC's reporting guidelines follow the national standards that most carriers are familiar with.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Employee passport number (DN 156), employee green card number (DN 153), and employee employment visa number (DN 152), are examples of data not currently captured and are not pertinent to medical bill review.		We disagree. These data elements are conditional.	
	Provider agreement code (DN 507), modified to identify MPN claims status, is captured in claims systems not in bill review systems, yet is must be submitted to WCIS with medical bill review information. The programming needed to accomplish this, will be costly and time-consuming and is unnecessary. An alternative and more efficient way to submit claims information is in FROI and SROI submissions together with the other required claims information.		We disagree. This information is in the bill review systems.	
	Bill adjustment reason code (DN 544), does not provide medical payment information but rather explains the reason for an adjusted payment. The California EDI Implementation Guide for Medical Bill Payment Records is incorporated by reference into 9701(c) and lists on page 117 three sources for bill adjustment reason codes. There are a number of problems: ➢ The sources provide listings that are inconsistent with one another, ➢ The codes are generally incompatible with California workers' compensation law and are not responsive to the needs of providers and payers in the system. ➢ A DWC-sponsored committee is developing a set of standard California workers' compensation explanations for		We disagree. This provides information with respect to multiple adjustments: OMFS, contract, and DRGs. We agree. We disagree. Codes are useful for WCIS purposes.	We deleted two references.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	universal use to address these needs ➢ Two of the sources are frequently updated. Direction is needed on which source listing to use, and under what circumstances to use codes identified as "modified" or "deleted." ➢ The Division has previously advised that unless statute dictates otherwise regulations cannot automatically update to reflect changes in a referenced source, but rather changes must be adopted via rulemaking Because of these problems and as previously agreed by the WCIS director, the claims adjustment reason codes should be removed from WCIS data reporting requirements.		We disagree. Numerous medical codes are updated manually. We disagree.	
Privacy & Security General Comment	Commenter references his August 11, 2005 letter to Administrative Director Hoch and the attached August 8, 2005 memorandum to Samuel Sorich, President of the Association of California Insurance Companies from Sonnenschein, Nath & Rosenthal, LLP regarding the threat to privacy posed by the WCIS system. Also referenced is the September 15, 2005 reply by Administrative Director Hoch. Commenter states that AD Hoch's reply did not address specific risks described in the legal analysis, nor did it acknowledge that a security breach free past is no guarantee against future compromise of the data base. Expansion of WCIS to include the most sensitive types of all personal information, medical information, increases their concern.	Ken Gibson, VP State Affairs American Insurance Association November 22, 2005 Written Comment	We disagree. DWC is authorized by Labor Code section 136.8 and 138.7 to collect the data and to provide it to the entities pursuant to Labor Code section 138.6 and 138.7. The workers' compensation information system (WCIS) is HIPAA compliant. In the past five years there have been no privacy or confidentiality breaches. Regulation section 9703 addresses access to individually identifiable information. Bona fide researchers are required to obtain written approval f the research protocol from an Institutional Review Board pursuant to Title 45, Code of Federal	Sections 9703 (d) and (f) have been amended to require non profit educational institutions to comply with Civil Code section 1798.24(t), which was amended effective January 1, 2006.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Commenter states that the legislature's concern about the protection of individually identifiable information is apparent throughout Labor Code section 139.7, as it is in Civil Code provisions relating to identity theft, security breaches and privacy of individually identifiable information of all sorts. Requests that DWC revise the current rules to address the specific steps the division will take to: (1) limit access to the data by technical and other means to those members of the Division's staff (and staff of any other agency within and outside of the DIR with a statutory right to the data) who need it to perform their jobs; (2) penalize any employee who accesses or attempts to access data without explicit authorization to do so; (3) disclose any security breach to individuals whose personal information was illicitly obtained and to those trading partners who transmitted the data the DWC required they report.		Regulations, Part 46, Subpart A. The protocol requires researchers to set forth why the information is required and how it will be protected, among other things. Subdivisions (d) and (f) have been amended to require non profit educational institutions to comply with Civil Code section 1798.24(t), which was amended effective January 1, 2006.	
Cost of implementation General Comment	Commenter points out that the contrast in the Initial Statement of Reasons that the proposed regulation will not have an adverse impact on business vs. the statement in the Notice of Proposed Rulemaking that the regulation may have "a significant, statewide adverse economic impact directly affecting business..."	Ken Gibson, VP State Affairs American Insurance Association November 22, 2005 Written Comment	We disagree. The Initial Statement of Reasons and the Notice both state: "Other insurance carriers who are not yet providing medical data may contract with a third party vendor and incur costs of approximately $8000 per year. Insurance companies who report directly to WCIS and use their	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			own systems will need to upgrade their programming for the medical data reporting and may incur an initial cost of approximately $50,000." Commenter is referring to the heading titles out of context.	
	Commenter disputes that Texas and West Virginia already have medical reporting systems in operation. States that in Texas the medial data reporting is in the earliest stages stating that as of October 28, 2005, 19 entities, only three of whom are actually insurers, had "progressed closer" to being approved trading partners for the IAIABC 837 format. West Virginia is still an exclusive state fund state. The state fund will evolve into a "mutual" entity in 2006, although it will remain the sole carrier allowed to operate in the state until July 2008. There are no insurance carriers in the market today and therefore none reporting data.		We agree that West Virginia has not begun requiring medical data. However, when the Form 399 was submitted, West Virginia stated that medical reporting would be mandated beginning December 2005.	None.
	Commenter states that regardless of other state reporting systems, to determine California costs, separate analyses of availability of the required data sets and establishment of systems to capture, store an access claims data (including data residing in the data bases of bill review vendors) would have to be performed. Commenter states that the division has not explained the source of the $8,000.00 per year vendor cost estimate. States that his members		We disagree. ❑ One vendor reported that the total initial fixed cost for a sender that wants to establish an entirely in-house reporting system could reach a total of $250,000 to $300,000, *not* on an amortized basis. The amortized annual cost is a fraction of this cost. ❑ The yearly set fee corresponding to the in-	None

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	have received quotes upward of $100,000 and as high as $400,000.00. Nor does DWC explain how the $50,000.00 estimate is derived to upgrade existing systems for those who already report to WCIS directly.		house reporting system according to this vendor would be $8,000. ❑ Multiple respondents indicated that bill review companies could send their clients' medical reporting data at very low cost, perhaps as low as $.05-$.10 per transaction. A cost of $.50 per transaction was stated by one vendor as being the top of his company's estimated range of total variable cost, or client fee. ❑ The total number of medical bills/transactions per workers' compensation claim averages about 5-7. This figure is likely to be falling significantly due to the system reforms that have dramatically reduced medical costs for workers' compensation claims. ❑ State Fund's estimated annual cost of $338,000 represents an average cost per claim of about $1.40, assuming that the annual number of SCIF claims averages 236,000 (which is the average number of FROI reports sent to the WCIS in the 2001-2004 period).	

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Wants to know why the Division is proceeding with the expansion of WCIS prior to the implementation of E-billing and use of the uniform billing formats (CMS 1500, UB 92, etc.).		Labor Code section 4603.4, which mandates standardized billing, was adopted in 2002. Labor Code section 138.6, which mandates collecting data for the WCIS, was adopted in 1993. However, we will amend to allow a variance for undue hardship.	Section 9702(a) will be amended to allow for a variance for undue hardship.
Defer Medical Data Reporting unit Implementation of E-Billing	Claims administrators will incur data entry costs, directly or through clearinghouse contracts, to convert information on paper bill forms into acceptable electronic data fields. A significant number of data fields come directly from the CMS 1500 and UB 92 forms. Conversion costs would be reduced if medical data reporting to WCIS followed instead of preceded implementation of e-billing.	Ken Gibson, VP State Affairs American Insurance Association November 22, 2005 Written Comment	We disagree. Labor Code section 4603.2 requires that the employers must accept electronic claims for payment, but does not require the providers to bill electronically. Therefore, even after the e-billing regulations are in effect, payors will continue to receive paper bills.	None.
Phase-in Medical Data Reporting	The Initial Statement of Reasons asserts that the proposed rule meeting the "necessity" standard because it would allow the DIR to analyze the costs of medical care. Detailed medical cost information for insured employers is and has been collected for many years. It resides in data bases at the WCIRB, the Insurance Commissioner's designated statistical agent, as well as in data bases at the CWCI and WCRI. Information derived from the data collected has been published and reported in various media. Data from self-insured employers and permissibly uninsured public entities is not readily available, however. Commencing with collection of data from these entities can more reality be justified on the basis that the gap in information about medical costs could be closed, then proceeding immediately with medical data collection from insurers.	Ken Gibson, VP State Affairs American Insurance Association November 22, 2005 Written Comment	We disagree. Labor Code section 136.8 requires DWC to collect data to assist the department to manage the workers' compensation system in an effective and efficient manner; facilitate the evaluation of the efficiency and effectiveness of the benefit delivery system; assist in measuring how adequately the system indemnifies injured workers and their dependents; and provide statistical aspects of the workers' compensation program. The DWC staff has worked very closely with the workers' compensation community for several years to ensure that DWC's medical data collection will optimally serve the needs of the community. As a	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			result of the many task force meetings that have been held, there is virtual consensus that the data that DWC will collect is appropriate.	
Defer the Start-up Date for all Claims Administrators	The proposed rule would require claims administrators to commence reporting medical data for all date of service on or after June 1, 2006. Assuming that no additional 15-day comment period is necessary, the earliest the proposed rule would become final is the end of this year. If there is one or more 15-day comment periods following the hearing, then the rule would not become final until the first quarter of 2006. A June 1st start date is insufficient lead time to take all the steps required to commence reporting, including first and foremost, scheduling time on in-house or contracted IT time to do the necessary work. A longer lead time would lessen the burden on affected businesses. Commenter recommends that the start date be pushed back at least until January 1, 2007. Voluntary testing and data transmission can continue and be expanded, but mandatory reporting should be deferred.	Ken Gibson, VP State Affairs American Insurance Association November 22, 2005 Written Comment	We agree to provide additional time. However: • At national meetings of the IAIABC, CA indicated that it would provide 6 months lead time for med data reporting and industry participants found this to be acceptable. • According to one major vendor, claims administrator with no experience sending med data would need 6-7 man-months, while one familiar with sending such data would need 2-3 months. • Another major vendor indicated that, for a company already sending health care data, the reporting would require only "a few weeks" of preparation. • A third vendor indicated that giving claims administrators 6 months to prepare to send the med data was absolutely reasonable. The section will be changed to require compliance six months after the regulations effective date and to allow for a claims administrator to request a six month variance.	Section 9702(a) is amended to include a variance. Section 9703(e) is amended to replace "June 1, 2006" with "OAL to insert a date six months after the date of filing with the secretary of state."
Section 9702(d)	Section 9702 has been amended to refer,	Ken Gibson, VP	We agree.	DN 144 has been deleted.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	among other things to Release 1 of the IAIABC EDI Implementation Guide. While there have been several confirming changes in the listed data number, DN 144 (Current Date Disability Began) has not been deleted. DN 144 is a Release 2 and Release 3 data field, but it is not a Release 1 data field and it should therefore have been deleted for consistency reasons.	State Affairs American Insurance Association November 22, 2005 Written Comment		
Section 9702(e)	This subdivision requires claims administrators handling 150 or more claims per year to report specified medical data. We suggest deferring the reporting date.	Ken Gibson, VP State Affairs American Insurance Association November 22, 2005 Written Comment	We disagree. We have amended to allow a variance. However: • At national meetings of the IAIABC, CA indicated that it would provide 6 months lead time for med data reporting and industry participants found this to be acceptable. • According to one major vendor, claims administrator with no experience sending med data would need 6-7 man-months, while one familiar with sending such data would need 2-3 months. • Another major vendor indicated that, for a company already sending health care data, the reporting would require only "a few weeks" of preparation. • A third vendor indicated that giving claims administrators 6 months to prepare to send the med data was absolutely reasonable.	We have amended section 9702(a) to allow for a variance.
Cost and Time Needed to Develop a reporting	The Division's estimate regarding the cost of the upgrading the programming system vary	Jose Ruiz Assistant Claims/	We disagree. • One vendor reported that the	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
system	significantly from State Fund's estimates and experience with WCIS operating cost to date. State Fund has obtained a third party estimate of approximately $338,000.00 for the first year and every year thereafter for medical data reporting. Quoted costs are about 7 times higher for the initial costs and 43 times higher for on-going annual costs estimated by the Division. State Fund's in-house estimates to implement the WCIS medical reporting are approximately the same as the quoted price. Estimated initial costs for in-house systems updates will include the purchase of translator licenses and support, planning, development, testing, and rollout of the program. Estimated on-going annual costs include licenses and information technology maintenance.	Rehabilitation Manager State Compensation Insurance Fund November 22, 2005 Written Comment	total initial fixed cost for a sender that wants to establish an entirely in-house reporting system could reach a total of $250,000 to $300,000, *not* on an amortized basis. The amortized annual cost is a fraction of this cost. • The yearly set fee corresponding to the in-house reporting system according to this vendor would be $8,000. • Multiple respondents indicated that bill review companies could send their clients' medical reporting data at very low cost, perhaps as low as $.05-$.10 per transaction. A cost of $.50 per transaction was stated by one vendor as being the top of his company's estimated range of total variable cost, or client fee. • The total number of medical bills/transactions per workers' compensation claim averages about 5-7. This figure is likely to be falling significantly due to the system reforms that have dramatically reduced medical costs for workers' compensation claims. • State Fund's estimated annual cost of $338,000 represents an average cost per claim of about $1.40, assuming that the annual number of SCIF claims averages	

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			236,000 (which is the average number of FROI reports sent to the WCIS in the 2001-2004 period).	
Section 9702 (e)	There is not sufficient time to develop system requirements and build a functional system that will enable us to comply with the WCIS Medical reporting by June 1, 2006. A more reasonable timeframe to start submitting medical payment records is at least 12 months after the WCIS regulations are finalized presuming that the e-billing standards/regulations have already been finalized. State Fund respectfully requests changing the start time to 12 months after regulations have been finalized. If DWC moves forward with the June 2006 requirement, a variance period must be granted, similar to what was done in the First Reporting of Injury (FROI) and Subsequent Report of Injury (SROI) reporting.	Jose Ruiz Assistant Claims/ Rehabilitation Manager State Compensation Insurance Fund November 22, 2005 Written Comment	We disagree. We have amended to allow a variance. However: • At national meetings of the IAIABC, CA indicated that it would provide 6 months lead time for med data reporting and industry participants found this to be acceptable. • According to one major vendor, claims administrator with no experience sending med data would need 6-7 man-months, while one familiar with sending such data would need 2-3 months. • Another major vendor indicated that, for a company already sending health care data, the reporting would require only "a few weeks" of preparation. A third vendor indicated that giving claims administrators 6 months to prepare to send the med data was absolutely reasonable.	We have amended section 9702(a) to allow a claims administrator to request a variance. Section 9703(e) is amended to replace "June 1, 2006" with "OAL to insert a date six months after the date of filing with the secretary of state."
Lack of e-billing standards to date	In order for carriers to collect and submit the data elements requested, the medical providers must provide the required data elements. However, the electronic billing standards that would require the providers to submit such information are not yet in force. Since the WCIS medical reporting requirements and	Jose Ruiz Assistant Claims/ Rehabilitation Manager State Compensation Insurance Fund November 22, 2005 Written Comment	We disagree. Labor Code section 4603.4, which mandates standardized billing, was adopted in 2002. Labor Code section 138.6, which mandates collecting data for the WCIS, was adopted in 1993. The E-billing regulations will be designed to work	We have amended section 9702(a) to allow a claims administrator to request a variance.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	electronic billing standards are interrelated, it would be more reasonable to wait until both sets of regulations are finalized.		with the WCIS system. Claims administrators currently receive bills from providers and will be able to report the required data elements. However, we will amend to allow a variance for undue hardship.	
Confidentiality & data security	Commenter believes that there should be criminal and civil penalties put in place to serve as a deterrent to breaches of confidentiality—unlawful access to, use or disclosure of the individually identifiable information. Commenter points out that there is no regulation specifically addressing the issue of security involving data collection/transfer, storage and dissemination of confidential data to the general public when the DWC eventually reports on WCIS data. DWC should address the security issue to ensure claimant and provider data collected through the WCIS are secure and protocols are in place if such data is breached.	Jose Ruiz Assistant Claims/ Rehabilitation Manager State Compensation Insurance Fund November 22, 2005 Written Comment	This comment goes beyond the scope of these regulations. DWC has protocols to maintain confidentially and security as the data is sent to the WCIS, and as DWC processes, uses and disseminates the data. The protocols are set forth in the Guides which are part of this rulemaking.	None. None.
Specific data elements	Dispense as written code (DN 562) This may be an unnecessary data element because LC section 4600.1 already requires pharmacies to fill brand name drug prescriptions with their available generic drug equivalents, unless the prescribing physician specifically provides otherwise in writing. The drug's unique NDC code will indicate whether the drug dispensed was generic or brand name. Since NDC billed code (DN 721) and NDC paid code (DN 728) are already required, collecting DN 562 would be duplicative and unnecessary.	Jose Ruiz Assistant Claims/ Rehabilitation Manager State Compensation Insurance Fund November 22, 2005 Written Comment	We disagree that the code is unnecessary. DWC is trying to capture the answers to the situation described.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	DN 521 principal diagnosis code and DN 550 principal procedure date. Please correct the spelling to "Principle Diagnosis Code" and "Principle Procedure Date" in the proposed regulations and Implementation Guide.		Disagree. The correct spelling is principal.	None.
Data Element 524 (Procedure Date) Section L Required Medical Data EDI Implementation Guide	Commenter believes that the mandatory requirement of reporting this data element/field could be problematic in reporting pharmacy claims data, and should be made conditional for entities reporting on pharmacy claims. Unless the DWC is requiring the date of the pharmacy dispense to be the procedure date, most pharmacy providers and entities that report pharmacy data will not have a procedure date, since there is no procedure to report.	Kevin C. Tribout Manager of Government Affairs PMSI November 22, 2005 Written Comment	We agree.	We have changed the requirement to conditional.
Data Element 630 (Billing Providers Licensure Number) Section L Required Medical Data EDI Implementation Guide	Commenter believes that requiring this element as mandatory is problematic. DWC has not clarified which provider's licensure number they are requesting – the prescribing physician's licensure number? If so, many retail pharmacies do not capture this data element and forward it to billing entities or event to employers or payors. If it is the pharmacies licensure number, many pharmacy bills forwarded by dispensing pharmacies in California, due to a lack of state mandated central billing form, do not contain pharmacy licensure numbers. Commenter requests that DWC provide an expanded definition of which provider's licensure to be reported in Data Element 630. Further, commenter requests that DWC change the licensure number requirements to mirror commonly accepted standard of billing	Kevin C. Tribout Manager of Government Affairs PMSI November 22, 2005 Written Comment	We agree. It is the pharmacy's state license number We disagree. On page 2, part 3 License information of the NCPDP provider ID and NPI application, the pharmacy is required to provide more detailed information about the state	We have added a reference to the Medical Implementation guide. We have amended section 9702 to allow for a variance for reporting is reporting causes an "undue hardship"

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	and reporting in other pharmacy systems by requiring the reporting entity to provide the state with the NABP or NCPDP pharmacy number for the dispensing pharmacy.		license number than the DWC is requesting.	
Data Element 643 (Rendering Bill Provider State Licensure Number) Section L Required Medical Data EDI Implementation Guide	Commenter had the same concern for Data Element 643 as it does for Date Element 630. Requests that DWC clarify the data to be reported in this field. Suggests that DWC change the licensure number requirement to mirror commonly accepted standards of billing and reporting in other pharmacy systems be requiring the reporting entity to provide the state with the NABP or NCPDP pharmacy number for the dispensing pharmacy.	Kevin C. Tribout Manager of Government Affairs PMSI November 22, 2005 Written Comment	We disagree. On page 2, part 3 License information of the NCPDP provider ID and NPI application, the pharmacy is required to provide more detailed information about the state license number than the DWC is requesting.	We have amended section 9702 to allow for a variance for reporting if reporting causes an "undue hardship"
Data Element 649 (Specialty Provider State Licensure Number) Section L Required Medical Data EDI Implementation Guide	Commenter had the same concern Data Element 649 as it does for Date Elements 630 and 643. Further, there is concern that in reporting data, there will be no specialty provider if the prescription is written by the injured workers health care network or personal treating physician. Requests that DWC clarify the data to be reported in this field. Suggests that DWC change the licensure number requirement to mirror commonly accepted standards of billing and reporting in other pharmacy systems be requiring the reporting entity to provide the state with the NABP or NCPDP pharmacy number for the dispensing pharmacy.	Kevin C. Tribout Manager of Government Affairs PMSI November 22, 2005 Written Comment	Agree. it is the pharmacies state license number We disagree. On page 2, part 3 License information of the NCPDP provider ID and NPI application, the pharmacy is required to provide more detailed information about the state license number than the DWC is requesting.	We have added a reference to the Medical Implementation guide. We have amended section 9702 to allow for a variance for reporting is reporting causes an "undue hardship"
Data Element 651 (Specialty Provider Code)	Commenter had the same concern regarding this element as it does for Date Elements 630 and 643. Further, there is concern that in	Kevin C. Tribout Manager of Government Affairs PMSI	We disagree. The 837 format requires submission of the provider's specialty code.	None.

Workers' Compensation Information System (WCIS)	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section L Required Medical Data EDI Implementation Guide	reporting pharmacy claims data, there will be no specialty provider if the prescription is written by the injured workers health care network or personal treating physician. Requests that DWC clarify the data to be reported in this field.	November 22, 2005 Written Comment	If it is dispensed within a physician's office, then the specialty code will be the physician's. If it is dispensed by a pharmacist, the specialty code will be the pharmacy's.	
Data Elements 715, 729 & 730 (Jurisdictional Codes) Section L Required Medical Data EDI Implementation Guide	Commenter does not understand the nature of the data or the data element being requested by DWC in these fields and why this data is mandatory. Commenter feels that by making this data element mandatory for employers, payors and their reporting entities on pharmacy claims data could cause confusion with reporting the proper element. Requests that DWC clarify that data to be reported in this filed and specify the reason this data element is a necessary element in reporting on pharmacy claims.	Kevin C. Tribout Manager of Government Affairs PMSI November 22, 2005 Written Comment	We agree.	We changed the requirement to conditional. This is noted in the Medical Implementation Guide.
General Comment	Commenter supports the implementation of the WCIS Regulations. Commenter would like to see reports of injury and information regarding medical delivery, a report card for California, issued by DWC based upon data collected under the WCIS system.	Peggy Sugarman Executive Director Voters Injured at work November 22, 2005 Oral Comment	We agree.	No change requested.